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November 1, 2005

Chairman Nils J. Diaz
U.S. Nuclear Regulatory Commission
One White Flint North
11555 Rockville Pike
Rockville, MD 20852-2738

Dear Chairman Diaz:

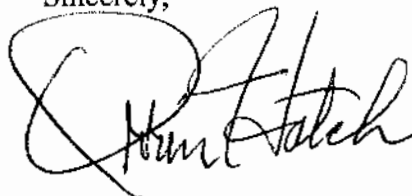
I write with regard to the Nuclear Regulatory Commission's (NRC's) obligation under the National Historic Preservation Act (NHPA) as it relates to the proposed Private Fuel Storage (PFS) license. This is a matter of considerable importance to the people of Utah.

As you know, it has been determined that the PFS plan would have potentially adverse impacts to historic properties under the NHPA, in which case a Memorandum of Agreement (MOA) among the relevant agencies is required. The MOA must be signed by the cooperating agencies with jurisdiction in the matter. However, it is my understanding that a number of these agencies, including the Bureau of Land Management, have determined that they cannot sign the MOA because their concerns have not been met.

It would be entirely inappropriate for the NRC to issue a license to PFS before relevant agencies have satisfied their legal and regulatory requirements under the NHPA. The law requires that these agencies be given the opportunity to faithfully execute their responsibilities with regard to historic properties and the land use planning process.

Thank you for taking the necessary steps to adhere to both the letter and the spirit of the law with regard to issuing a license for PFS.

Sincerely,



Orrin G. Hatch
United States Senator



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

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In Reply Refer To:
5100
UT-023

Mr. Stewart W. Brown, Senior Project Manager
Licensing and Inspection Directorate
Spent Fuel Project Office
Office of Nuclear Material Safety and Safeguards
11555 Rockville Pike
Rockville, MD 20852-2738

Dear Mr. Brown:

I apologize for the delay in responding to your letter dated May 26, 2005 (received June 3) concerning the Memorandum of Agreement (MOA) for the Proposed Private Fuels Storage Project (PFS), Section 106, National Historic Preservation Act compliance. With the retirement of Alice Stephenson, Salt Lake Field Office (SLFO) NEPA Coordinator, and changes in the Cultural Resources Program processes, it has taken some time for implementation to occur. Pam Schuller, the current NEPA Coordinator and Peter Ainsworth, Cultural Resources Program Lead, have been assigned to work on the Proposed Private Fuels Storage Project. Please feel free to contact either of them as the need arises.

I have several concerns with the MOA and the Treatment Plan which need to be addressed in advance of my signing the document. The biggest concern I have is the remaining issue of the SLFO being prohibited from conducting land use planning in the Skull Valley area. This is due to the provisions of the National Defense Appropriation Act which have prevented us from concluding our land use plan amendment. It is felt that signing the MOA could be construed as pre-decisional planning for the proposed rail line. We may be able to mitigate by including language in the MOA which allows Bureau of Land Management (BLM) to later complete its action regarding land use planning. BLM will not make a decision to authorize the construction of the railroad until after the Moratorium is lifted.

I am also concerned about the current state of the Treatment Plan. My understanding is that there have been no changes made to the Treatment Plan especially in regards to the comments made by the Advisory Council for Historic Preservation and comments made by my staff. It appears at least one more draft of the Treatment Plan is needed. To reiterate, we have a significant concern regarding the Treatment Plan and how it places a disproportionate requirement upon PFS for mitigation of impacts which result essentially only from the proposed construction of a rail line across BLM land. I have heard that PFS is willing to undertake the high dollar actions identified in the current draft Treatment Plan. If they wish to do so of their

own volition and develop an agreement with Native American interests which would result in a final product which addresses more than the proposed impacts in Skull Valley, that is laudable. I am willing to agree to a Treatment Plan and would direct Mr. Ainsworth to participate in its development if it is responsive to Native American concerns about cultural and physical impacts resulting from the action. However, the plan as proposed is so disproportionate it seems nearly punitive by comparison to the actual impacts of the proposal.

We look forward to working with you. If you have any concerns or questions please contact [REDACTED] or [REDACTED]

Sincerely,

Glenn A. Carpenter
Field Manager